

### § 225.3

such subprofessional positions are subject to merit system requirements, except where special exemption is approved on the basis of a State alternative plan for recruitment and selection among the disadvantaged of persons who have the potential ability for training and job performance to help assure achievement of program objectives;

(2) An administrative staffing plan to include the range of service personnel of which subprofessional staff are an integral part;

(3) A career service plan permitting persons to enter employment at the subprofessional level and, according to their abilities, through work experience, pre-service and in-service training and educational leave with pay, progress to positions of increasing responsibility and reward;

(4) An organized training program, supervision, and supportive services for subprofessional staff; and

(5) Annual progressive expansion of the plan to assure utilization of increasing numbers of subprofessional staff as community service aides, until an appropriate number and proportion of subprofessional staff to professional staff are achieved to make maximum use of subprofessionals in program operation.

(b) Provide for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency and for that purpose provide for:

(1) A position in which rests responsibility for the development, organization, and administration of the volunteer program, and for coordination of the program with related functions;

(2) Methods of recruitment and selection which will assure participation of volunteers of all income levels in planning capacities and service provision;

(3) A program for organized training and supervision of such volunteers;

(4) Meeting the costs incident to volunteer service and assuring that no individual shall be deprived of the opportunity to serve because of the expenses involved in such service; and

(5) Annual progressive expansion of the numbers of volunteers utilized, until the volunteer program is ade-

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quate for the achievement of the agency's service goals.

[34 FR 1320, Jan. 28, 1969, as amended at 41 FR 12015, Mar. 23, 1976; 42 FR 60566, Nov. 28, 1977; 45 FR 56686, Aug. 25, 1980; 51 FR 9204, Mar. 18, 1986]

### § 225.3 Federal financial participation.

Under the State plan for financial assistance programs under titles I, X, XIV, XVI (AABD) or for child welfare services under title IV-B of the Act, Federal financial participation in expenditures for the recruitment, selection, training, and employment and other use of subprofessional staff and volunteers is available at the rates and under related conditions established for training, services, and other administrative costs under the respective titles.

[51 FR 9204, Mar. 18, 1986]

## PART 232—SPECIAL PROVISIONS APPLICABLE TO TITLE IV-A OF THE SOCIAL SECURITY ACT

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Office of Family Assistance, ACF, HHS

§ 232.12

APPENDIX A TO PART 232—Model Two-Part  
Good Cause Notice

AUTHORITY: 42 U.S.C. 1302.

**§ 232.1 Scope.**

This part implements provisions of titles IV-A and IV-D of the Social Security Act that are applicable only to the AFDC program and establishes other administrative and fiscal requirements.

(Sec. 1102, Social Security Act, as amended, 49 Stat. 647, as amended; 42 U.S.C. 1302 and Part XXIII of Pub. L. 97-35, 95 Stat. 843)

[47 FR 5674, Feb. 5, 1982]

**§ 232.2 Child support program; State plan requirements.**

The State plan must specify that the State:

(a) Has in effect a plan approved under part D of title IV of the Act that, consistent with the provisions of this title, ensures that all applicants for and recipients of AFDC are encouraged, assisted, and required to cooperate in the establishment of paternity and the enforcement of child support obligations, and are notified of the paternity establishment and child support services for which they may be eligible; and

(b) Operates a child support program in conformity with such plan.

[40 FR 27154, June 26, 1975, as amended at 57 FR 30425, July 9, 1992]

**§ 232.11 Assignment of rights to support.**

(a) The State plan must provide that:

(1) As a condition of eligibility for assistance, each applicant for or recipient of AFDC shall assign to the State any rights to support from any other person as such applicant or recipient may have:

(i) In his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving assistance; and

(ii) Which have accrued at the time such assignment is executed.

(2) If the relative with whom a child is living fails to comply with the requirements of paragraph (a)(1), (2), or (3) of this section, such relative shall be denied eligibility without regard to other eligibility factors.

(3) If the relative with whom a child is living is found to be ineligible for assistance because of failure to comply with the requirements of paragraph (a)(1), (2), or (3) of this section, any aid for which such child is eligible (determined without regard to the needs of the ineligible relative) will be provided in the form of protective payments as described in § 234.60 of this chapter.

(4) For new applicants, the requirements of paragraph (a) of this section shall be effective August 1, 1975; and for current recipients, it shall be effective as determined by the State agency but not later than the time of the next redetermination of eligibility required by § 206.10(a)(9) of this chapter and in any event not later than February 1, 1976.

(b) An assignment by operation of State law which is substantially identical to the requirements of paragraph (a)(1) may be utilized in lieu of the assignment described in that paragraph.

(c) If there is a failure to execute an assignment pursuant to this section, the State may attempt to establish paternity and collect child support pursuant to appropriate State statutes and regulations.

[40 FR 27154, June 26, 1975, as amended at 40 FR 52376, Nov. 10, 1975]

**§ 232.12 Cooperation in obtaining support.**

The State plan must meet all requirements of this section.

(a) The plan shall provide that as a condition of eligibility for assistance, each applicant for or recipient of AFDC will be required to cooperate (unless good cause for refusing to do so is determined to exist in accordance with §§ 232.40 through 232.49 of this chapter) with the State in:

(1) Identifying and locating the parent of a child for whom aid is claimed;

(2) Establishing the paternity of a child born out of wedlock for whom aid is claimed;

(3) Obtaining support payments for the applicant or recipient and for a child for whom aid is claimed; and

(4) Obtaining any other payments or property due the applicant or recipient or the child.

(b) The plan shall specify that *cooperate* includes any of the following actions that are relevant to, or necessary

for, the achievement of the objectives specified in paragraph (a) of this section:

(1) Appearing at an office of the State or local agency or the child support agency as necessary to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient;

(2) Appearing as a witness at judicial or other hearings or proceedings;

(3) Providing information, or attesting to the lack of information, under penalty of perjury; and

(4) Paying to the child support agency any support payments received from the absent parent after an assignment under § 232.11 has been made. This includes support payments received in the current month and any amounts due to the IV-D agency under the IV-D State plan provisions for recovery of retained direct support payments at 45 CFR 302.31(a)(3)(ii).

(c) The plan shall provide that, if the child support agency notifies the State or local agency of evidence of failure to cooperate, the State or local agency will act upon that information to enforce the eligibility requirements of this section.

(d) The plan shall provide that, if the caretaker relative fails to cooperate as required by paragraphs (a) and (b) of this section, the State or local agency will:

(1) Deny assistance to the caretaker relative without regard to other eligibility factors; and

(2) Provide assistance to the eligible child in the form of protective payments as described in § 234.60 of this chapter. Such assistance will be determined without regard to the needs of the caretaker relative.

[43 FR 2176, Jan. 16, 1978, as amended at 43 FR 45747, Oct. 3, 1978; 47 FR 43956, Oct. 5, 1982]

**§ 232.13 Cooperation in identifying and providing information to assist the State in pursuing third party liability for medical services.**

(a) The State plan must provide that as a condition of eligibility, each applicant for or recipient of AFDC will be required to cooperate (unless good

cause for refusing to do so is determined to exist in accordance with §§ 232.40 through 232.49) with the State in:

(1) Identifying any third party who may be liable for care and services available under the State's title XIX State plan in behalf of the applicant or recipient or in behalf of any other family member (including parents and siblings as required under § 206.10(a)(1)(vii) (A) and (B)) for whom the applicant or recipient is applying for or receiving assistance; and

(2) Providing relevant information, consistent with rules issued by the Health Care Financing Administration at 42 CFR 433.138(b), to assist the State in pursuing any such potentially liable third party resources. Such information may include, but is not limited to, the name of the health insurance policy holder, his or her relationship to the applicant or recipient, the social security number of the policy holder, and the name and address of the insurance company and policy number.

(b) The plan shall provide that if the applicant or recipient fails to cooperate as required by this section (unless good cause is determined to exist), the State or local agency shall:

(1) Deny assistance to the applicant or recipient without regard to other eligibility factors; and

(2) Provide assistance to the eligible child in the form of protective payments as described in § 234.60 of this chapter. Such assistance will be determined without regard to the needs of the applicant or recipient.

(c) Federal financial participation (FFP) is available for title IV-A administrative costs associated with identifying and providing information about a potentially liable third party as part of the eligibility determination for the AFDC program. FFP is also available for IV-A administrative costs associated with determining good cause for failure to cooperate, and providing assistance in the form of protective payments.

[56 FR 8929, Mar. 4, 1991]

**§ 232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV-A Program.**

(a) *Definition.* For purposes of this section, notwithstanding any other regulations in this chapter, support collections, monthly collections and support amounts for a month mean the assigned amount that the support enforcement agency collects from an absent parent or spouse on a monthly support obligation, less the disregarded sum under § 302.51(b)(1).

(b) The State plan must provide that in any case in which support payments are collected for a recipient of AFDC with respect to whom an assignment under § 232.11 is effective:

(1) Upon notification by the IV-D agency of the amount of a support collection, the IV-A agency will use such amount to review eligibility of the assistance unit under § 206.10(a)(9)(ii). This use of these amounts so collected shall not be later than the second month after the month in which the IV-A agency received a report of the monthly collections from the IV-D agency. In determining whether a support collection made by the State's IV-D agency, which represents support amounts for a month as determined pursuant to § 302.51(a) of this title, is sufficient to make the family ineligible for an assistance payment for the month to which the redetermination applies, the State will determine if such collection, when treated as if it were income, makes the family ineligible for an assistance payment. If such treatment makes the family ineligible, the IV-A agency will notify the family and the IV-D agency of the effective date of the family's ineligibility. The IV-D agency will treat the support collection that caused ineligibility in accordance with § 302.32. If such treatment does not make the family ineligible for an assistance payment, the assistance payment will be calculated without regard to such collection except that, when required under § 232.21 supplemental payments must be calculated and issued.

(2) Any payment received pursuant to § 302.51(b) (3) or (5) shall be treated as income in the month following the

month to which the redetermination in paragraph (b)(1) of this section applies.

(c) From any amounts of assistance payments which are reimbursed by support collections made by the IV-D agency, the IV-A agency shall pay the Federal government its share of the collections made, after the incentive payments, if any, have been made pursuant to § 302.52 of chapter III of this title.

(d) The State plan must provide that the IV-A agency, on behalf of the IV-D agency, will send to the family the sum disregarded under § 302.51(b)(1) within 15 calendar days of the end of the month in which the support was initially received in the State.

(Sec. 1102, Social Security Act, as amended, 49 Stat. 647, as amended; 42 U.S.C. 1302 and Part XXIII of Pub. L. 97-35, 248, 95 Stat. 843, 96 Stat. 324)

[47 FR 5674, Feb. 5, 1982, as amended at 48 FR 28408, June 21, 1983; 49 FR 35599, Sept. 10, 1984; 51 FR 29229, Aug. 15, 1986; 54 FR 32308, Aug. 4, 1989; 57 FR 30157, July 8, 1992; 57 FR 54519, Nov. 19, 1992]

**§ 232.21 Computation of a supplemental payment when there is a support payment.**

(a) The purpose of this section is to provide for the computation of a supplemental payment under section 402(a)(28) of the Social Security Act. When used in this section—

*Countable income* means the amount of the recipient's gross income that is used in the computation of the assistance payment after application of all disregards, including work-related expenses.

*Countable support payment* means the support collected on the current month's support obligation less an amount not in excess of the first \$50 collected on that obligation. It also means the excess payments paid to the recipient by the IV-D agency under 45 CFR 302.51(b) (3) and (5).

*Disposable income* means the sum of the assistance payment, and the countable income used in determining the amount of the payment.

*Arrearages* means all collections of past due support exclusive of those made through the Federal and State income tax refund offset.

(b) The State plan must provide that, if the redetermination under § 232.20 indicates that the support payment made on the current month's support obligation would not cause ineligibility, and the State permitted recipients during July 1975 to retain countable income without an equal reduction in their assistance payment, and it currently has such a policy in effect, a supplemental payment will be computed for the current month.

(1) The supplemental payment for a month shall equal the maximum portion of the total support collected in that month which would not reduce the assistance payment if paid directly to the family. In determining this amount, the State agency will—

(i) First consider income from sources other than the support collection; and

(ii) Include in the amount of support collected the maximum amount of any arrearages paid which would not cause ineligibility if paid directly to the family.

(2) The supplemental payment will be computed as follows:

(i) The State IV-A agency determines the assistance payment which would result from treating as income to the family the largest amount of the month's child support collection, including arrearages, that will not cause ineligibility. Using that assistance payment, and using that amount of the support collection as countable income, disposable income is computed.

(ii) The State agency then determines the amount of the assistance payment for which the family would be eligible if there were no support collection. Using that assistance payment, disposable income is again computed.

(iii) The supplemental payment is the amount of disposable income as computed in step (i) less the amount of disposable income as computed in step (ii).

(iv) *Examples:*

*Example 1.* The State computes the assistance payment by subtracting income from the need standard and pays the deficit or a maximum by family size, whichever is less: (All figures are assumed and do not include income from any other source.)

*Step (i): Treating countable support payment as income.* Subtract a countable support payment of \$100 from a need standard of \$300.

The deficit is \$200. Assume the State's maximum for this family size is \$150; therefore, the assistance payment would be \$150. The assistance unit would have a \$150 assistance payment and the \$100 countable support payment for a total disposable income of \$250.

*Step (ii): Not treating countable support payment as income.* There is no income to subtract from the need standard. Thus the assistance payment would be the maximum of \$150 for this family size, which would also be the disposable income.

*Step (iii): Taking the difference.* The supplemental payment is the difference between the disposable income computed under steps (i) and (ii), \$250 minus \$150, or \$100.

*Example 2.* The State computes the assistance payment by subtracting income from a reduced need standard and pays the deficit or a maximum by family size, whichever is less. Assume a need standard of \$400, a ratable reduction of 70%, and a maximum assistance payment of \$200. Also assume a \$500 total child support collection for the month, \$200 of which is the current month's support obligation. The State's minimum payment is \$5.

*Step (i): Treating countable support payments as income.* Determine the largest part of the \$500 child support collection which would not cause ineligibility if counted as income to the assistance unit. This would be \$279 because the State's reduced need standard is \$280 (70% of \$400) and any amount of income over \$279 would make the family ineligible. The deficit would be \$1. The assistance unit would not receive an assistance payment, however, they would have the \$279 support payment as disposable income. No assistance payment is made but the family remains eligible under § 233.20(a)(3)(viii) (C) and (D).

*Step (ii): Not treating countable support payment as income.* There is no income to subtract from the reduced need standard, thus the assistance payment would be the maximum of \$200 for this family size, which would also be the disposable income.

*Step (iii): Taking the difference.* The supplemental payment is the difference between the disposal incomes computed under steps (i) and (ii), \$280 minus \$200, or \$80.

(c) A supplemental payment under this section may either be added to the assistance payment for which the unit is otherwise eligible, to make a new total assistance payment for the month or be issued separately. In the examples in paragraph (b)(2)(iv) of this section, the new total assistance payments would be \$250 (\$150 plus \$100) in Example 1, and \$280 (\$200 plus \$80) in Example 2.

[51 FR 29229, Aug. 15, 1986]

**§ 232.30 Cost of staff of special administrative units.**

Cost of staff of Special Administrative Units (SAUs) providing social and supportive services under the Work Incentive (WIN) program is subject to FFP under title IV-A in all jurisdictions, pursuant to section 403(d) of the Act and 45 CFR 224.14(d). Cost of staff who solely perform other social service functions is not eligible for FFP under title IV-A, except in Puerto Rico, the Virgin Islands, and Guam.

[41 FR 37781, Sept. 8, 1976, as amended at 47 FR 17508, Apr. 23, 1982]

**§ 232.40 Claiming good cause for refusing to cooperate.**

(a) *Opportunity to claim good cause.* The plan shall provide that an applicant for, or recipient of, AFDC will have the opportunity to claim good cause for refusing to cooperate as required by § 232.12 or § 232.13.

(b) *Notice to applicant or recipient.* (1) The plan shall provide that: (i) Prior to requiring cooperation under § 232.12 or § 232.13, the State or local agency will notify the applicant or recipient of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination;

(ii) The notice will be in writing, with a copy furnished to the applicant or recipient; and

(iii) The applicant or recipient and the caseworker will acknowledge that the applicant or recipient received the notice by signing and dating a copy of the notice, which will be placed in the case record.

(2) The notice may be in two parts. If the State elects a two part notice:

(i) The first notice shall: (A) Advise the applicant or recipient of the potential benefits the child may derive from the establishment of paternity, securing support, and identifying and providing information to assist the State in pursuing third party liability for medical services;

(B) Advise the applicant or recipient that by law, cooperation in establishing paternity, securing support, and pursuing liability for medical services is a condition of eligibility for AFDC;

(C) Advise the applicant or recipient of the sanctions provided by §§ 232.12

and 232.13 for refusal to cooperate without good cause;

(D) Advise the applicant or recipient that good cause for refusal to cooperate may be claimed; and that if the State or local agency determines, in accordance with this section, that there is good cause, the applicant or recipient will be excused from the cooperation requirement; and

(E) Advise the applicant or recipient that upon request, or following a claim of good cause, the agency will provide further notice with additional details concerning good cause.

(ii) The second notice, which will be provided promptly upon request of the applicant or recipient or following a claim of good cause, shall:

(A) Indicate that the applicant or recipient must provide corroborative evidence of a good cause circumstance (as specified in § 232.43 (b) and (f)) and must, when requested, furnish sufficient information to permit the State or local agency to investigate the circumstances;

(B) Inform the applicant or recipient that upon request, the State or local agency will provide reasonable assistance in obtaining the corroborative evidence;

(C) Inform the applicant or recipient that on the basis of the corroborative evidence supplied and the agency's investigation, if necessary, the State or local agency will determine whether cooperation would be against the best interests of the child for whom support or third party liability for medical services would be sought;

(D) List the circumstances (as specified in § 232.42) under which cooperation may be determined to be against the best interests of the child;

(E) Inform the applicant or recipient that the State title IV-D agency and the State title XIX agency may review the State or local agency's findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause; and

(F) As applicable (see § 232.49), inform the applicant or recipient that either: The State title IV-D agency will not attempt to establish paternity and collect support and the State title XIX agency may not attempt to collect third party information or pursue third

parties liable for medical services in those cases where the applicant or recipient is determined to have good cause for refusing to cooperate; or the State title IV-D agency may attempt to establish paternity and collect support and the State title XIX agency may pursue liable third parties in those cases where the State or local agency determines that this can be done without risk to the applicant or recipient if done without their participation.

(3) The State or local agency may, at its option, provide a single combined notice that contains all of the elements in paragraphs (b)(2) (i) and (ii) of this section.

(4) Appendix A to this part 232 is a suggested two part notice format that meets the requirements of this section.

(c) *Requirements upon applicant or recipient.* (1) The plan shall provide that an applicant for, or recipient of, AFDC who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Such applicant or recipient will be required to:

(i) Specify the circumstances (see § 232.42) that the applicant or recipient believes provide sufficient good cause for not cooperating.

(ii) Corroborate the good cause circumstances in accordance with § 232.43; and

(iii) If requested, provide sufficient information (such as the putative father or absent parent's name and address, if known) to permit an investigation pursuant to § 232.43(g).

(2) The plan shall provide that if the requirements of paragraph (c)(1) of this section are not met, the State or local agency shall on that basis determine that good cause does not exist.

[43 FR 45747, Oct. 3, 1978, as amended at 56 FR 8930, Mar. 4, 1991]

**§ 232.41 Determination of good cause for refusal to cooperate.**

The plan shall provide that:

(a) For each applicant for or recipient of AFDC who claims to have good cause, the State or local agency will determine, in accordance with §§ 232.40, 232.42 and 232.43, whether good cause exists.

(b) The State or local agency's final determination that good cause does, or does not exist will:

(1) Be in writing;

(2) Contain the agency's findings and basis for determination; and

(3) Be entered into the AFDC case record.

(c) The State or local agency's determination of whether or not good cause exists will be made within a State established time standard that does not exceed 45 days from the day the good cause claim is made. The State or local agency may exceed this time standard only where the case record documents that the agency needs additional time because the information required to verify the claim cannot be obtained within the time standard or that the claimant did not provide corroborative evidence within the period required by § 232.43(b).

(d) If the State or local agency determines that good cause does not exist:

(1) The applicant or recipient will be so notified and afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) Continued refusal to cooperate will result in imposition of the sanctions provided in § 232.12 or § 232.13.

[43 FR 45748, Oct. 3, 1978, as amended at 56 FR 8930, Mar. 4, 1991]

**§ 232.42 Good cause circumstances.**

(a) *Circumstances under which cooperation may be "against the best interests of the child".* The plan shall provide that the State or local agency will determine that cooperation in establishing paternity, securing support or identifying and providing information to assist the State in pursuing any third party who may be liable to pay for medical services available under the State's title XIX plan is against the best interests of the child only if:

(1) The applicant's or recipient's cooperation in establishing paternity, securing support, or identifying and providing information to assist the State in pursuing third parties potentially liable for medical services is reasonably anticipated to result in:

(i) Physical harm to the child for whom support is to be sought;

(ii) Emotional harm to the child for whom support is to be sought;

(iii) Physical harm to the parent or caretaker relative with whom the child is living which reduces such person's capacity to care for the child adequately;

(iv) Emotional harm to the parent or caretaker relative with whom the child is living, of such nature or degree that it reduces such person's capacity to care for the child adequately; or

(2) At least one of the following circumstances exists, and the State or local agency believes that because of the existence of that circumstance proceeding to establish paternity, secure support, or to identify and provide information to assist States in pursuing third party liability for medical services would be detrimental to the child for whom support would be sought.

(i) The child for whom support is sought was conceived as a result of incest or forcible rape;

(ii) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(iii) The applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish him for adoption, and the discussions have not gone on for more than 3 months.

(b) *Physical harm and emotional harm defined.* Physical harm and emotional harm must be of a serious nature in order to justify a finding of good cause under paragraph (a)(1) of this section. A finding of good cause for emotional harm may only be based upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

(c) *Special considerations related to emotional harm.* The plan shall provide that, for every good cause determination which is based in whole or part upon the anticipation of emotional harm to the child, the parent or the caretaker relative, as provided for in paragraphs (a)(1) (ii) and (iv) of this section, the State or local agency will consider the following:

(1) The present emotional state of the individual subject to emotional harm;

(2) The emotional health history of the individual subject to emotional harm;

(3) Intensity and probable duration of the emotional impairment;

(4) The degree of cooperation to be required; and

(5) The extent of involvement of the child in the paternity establishment, support enforcement activity or collection of information to assist the State in the pursuit of third parties to be undertaken.

[43 FR 45748, Oct. 3, 1978, as amended at 56 FR 8930, Mar. 4, 1991]

#### § 232.43 Proof of good-cause claim.

The plan shall provide that:

(a) The State or local agency will make a good-cause determination based on the corroborative evidence supplied by the applicant or recipient only after it has examined the evidence and found that it actually verifies the good-cause claim.

(b) The applicant or recipient who claims good cause must provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the State or local agency determines the applicant or recipient requires additional time because of the difficulty of obtaining the corroborative evidence, the agency shall allow a reasonable additional period of time upon approval by supervisory personnel.

(c) A good-cause claim may be corroborated with the following types of evidence:

(1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative;

(4) Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom



support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child for whom support would be sought;

(5) A written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him for adoption; and

(6) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good-cause claim.

(d) If after examining the corroborative evidence submitted by the applicant or recipient, the State or local agency wishes to request additional corroborative evidence which is needed to permit a good-cause determination, the agency will:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed; and

(2) Specify the type of document which is needed.

(e) Upon request, the State or local agency will:

(1) Advise the applicant or recipient how to obtain the necessary documents; and

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

(f) Where a claim is based on the applicant's or recipient's anticipation of physical harm as specified and defined in § 232.42 (a) and (b), and corroborative evidence is not submitted in support of the claim:

(1) The State or local agency will investigate the good-cause claim when the agency believes that:

(i) The claim is credible without corroborative evidence; and

(ii) Corroborative evidence is not available.

(2) Good cause will be found if the claimant's statement and the investigation which is conducted satisfies the agency that the applicant or recipient has good cause for refusing to cooperate.

(3) A determination that good cause exists will be reviewed and approved or disapproved by supervisory personnel and the agency's findings will be recorded in the case record.

(g) The State or local agency may further verify the good-cause claim if the applicant's or recipient's statement of the claim required by § 232.40(c)(1)(i), together with the corroborative evidence do not provide sufficient basis for making a determination. When the State or local agency determines that it is necessary, the agency may conduct an investigation of good-cause claims to determine that good cause does or does not exist.

(h) If it conducts an investigation of a good-cause claim, the State or local agency will:

(1) Contact the absent parent or putative father from whom support would be sought if such contact is determined to be necessary to establish the good-cause claim; and

(2) Prior to making such necessary contact, notify the applicant or recipient to enable the applicant or recipient to:

(i) Present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary;

(ii) Withdraw the application for assistance or have the case closed; or

(iii) have the good-cause claim denied.

[43 FR 45749, Oct. 3, 1978]

#### **§ 232.44 Participation by the State IV-D or title XIX agency.**

The plan shall provide that:

(a) Prior to making a final determination of good cause for refusing to cooperate, the State or local agency will:

(1) Afford the IV-D agency or the title XIX agency, as appropriate, the opportunity to review and comment on the findings and basis for the proposed determination; and

(2) Consider any recommendation from the IV-D agency or the title XIX agency, as appropriate.

(b) The State or local agency will give the IV-D agency or the title XIX agency, as appropriate, the opportunity to participate in any hearing

(under §205.10 of this chapter) that results from an applicant's or recipient's appeal of any agency action under §§232.40 through 232.49.

[56 FR 8930, Mar. 4, 1991]

**§ 232.45 Notice to the IV-D or title XIX agency.**

The plan shall provide that:

(a) If the notice, required by §235.70 of this chapter, has previously been provided to the IV-D agency or title XIX agency, as appropriate, the State or local agency will promptly report to the IV-D agency or title XIX agency, as appropriate, that good cause has been claimed;

(b) The State or local agency will promptly report to the IV-D agency or title XIX agency, as appropriate, all cases in which it has determined that there is good cause for refusal to cooperate and, if applicable, its determination whether or not child support enforcement or collection of information identified and provided to assist a State in the pursuit of third parties potentially liable for medical services may proceed without the participation of the caretaker relative; and

(c) The State or local agency will promptly report to the IV-D agency or title XIX agency, as appropriate, all cases in which it has determined that there is not good cause for refusal to cooperate.

[56 FR 8930, Mar. 4, 1991]

**§ 232.46 Granting or continuation of assistance.**

The plan shall provide that the State or local agency will not deny, delay, or discontinue assistance pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements of §§232.40(c) and 232.43 to furnish corroborative evidence and information.

[43 FR 45750, Oct. 3, 1978]

**§ 232.47 Periodic review of good cause determination.**

The plan shall provide that the State or local agency will:

(a) Periodically review, not less frequently than at each redetermination of eligibility required by §206.10(a)(9) of this chapter, those cases in which the

agency has determined that good cause exists based on a circumstance that is subject to change; and

(b) If it determines that circumstances have changed such that good cause no longer exists, it will rescind its findings and proceed to enforce the requirements of §232.12 or §232.13 of this chapter.

[43 FR 45750, Oct. 3, 1978, as amended at 56 FR 8931, Mar. 4, 1991]

**§ 232.48 Record keeping in good cause.**

The plan shall provide that the State will maintain separate records of the good cause claims under §232.12 and the good cause claims under §232.13 and will make it possible to submit to the Department, upon request, data concerning:

(a) The total number of cases in which the applicant or recipient claimed to have good cause for refusing to cooperate;

(b) The number of cases in which the claim was made without corroborative evidence under the provisions of §232.43(f);

(c) The total number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate;

(d) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate without corroborative evidence under the provisions of §232.43(f);

(e) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate based solely on an examination of the corroborative evidence supplied by the applicant or recipient with no investigation;

(f) The number of cases where good cause was claimed by an applicant prior to receiving AFDC and the final determination that good cause did not exist was made after the applicant was determined to be eligible for AFDC;

(g) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate but there was a determination pursuant to §232.49 that child support enforcement or the collection of information to assist the State in the pursuit of third parties potentially liable for medical services, may proceed without

## § 232.49

the participation of the caretaker relative; and

(h) For those cases in which good cause was found, which of the circumstances specified in §232.42 was found to exist.

[43 FR 45750, Oct. 3, 1978, as amended at 56 FR 8931, Mar. 4, 1991]

EFFECTIVE DATE NOTE: At 56 FR 8931, Mar. 4, 1991, §232.48 was amended by revising the introductory text of the section and paragraph (g). The revised text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. A notice will be published in the FEDERAL REGISTER once approval has been obtained. The text in effect until OMB clearance is obtained is shown below.

### § 232.48 Recordkeeping in good cause.

The plan shall provide that the State will maintain records of the activities under this section that will make it possible to submit to the Department, upon request, data concerning:

\* \* \* \* \*

(g) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate but there was a determination pursuant to §232.49 that child support enforcement may proceed without the participation of the caretaker relative; and

\* \* \* \* \*

### § 232.49 Enforcement without the caretaker's cooperation.

The State plan may provide that:

(a) If the State or local agency makes a determination that good cause exists, it will also make a determination of whether or not child support enforcement or the collection of information identified and provided to assist the State in the pursuit of any third party liable for medical services could proceed without risk of harm to the child or caretaker relative if the enforcement or collection activities did not involve their participation;

(b) This determination will be in writing, contain the agency's findings and basis for determination, and be entered into the AFDC case record;

(c) If the IV-A agency excuses non-cooperation but determines that the

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IV-D agency or the title XIX agency may proceed to establish paternity, enforce support, or collect information to assist the State in pursuit of liable third parties, it will notify the applicant or recipient to enable such individual to withdraw his or her application for assistance or have the case closed; and

(d) Prior to making this determination under this paragraph, the State or local agency will afford the IV-D agency or the title XIX agency an opportunity to review and comment on the findings and basis for the proposed determination and consider any recommendation from the IV-D agency or the title XIX agency.

[43 FR 45750, Oct. 3, 1978, as amended at 56 FR 8931, Mar. 4, 1991]

### APPENDIX A TO PART 232—MODEL TWO-PART GOOD CAUSE NOTICE

This suggested two-part notice format meets the notice requirements of §232.40(b)(2). The first notice should be provided prior to requiring the applicant's or recipient's cooperation. The second notice should be primarily provided if the applicant or recipient so requests or following a claim of good cause. Receipt of the notice will be acknowledged by the applicant's or recipient's and the worker's signature. The signed copy should be placed in the AFDC case record with one copy retained by the applicant or recipient.

Before being used by a State, this model should be adapted by substituting the appropriate agencies' names.

*Notice of Requirement To Cooperate and Right To Claim Good Cause for Refusal To Cooperate in Identifying and Providing Information To Assist States in Pursuit of Third Parties Liable for Medical Services, and in Child Support Enforcement.*

#### BENEFITS OF CHILD SUPPORT ENFORCEMENT

Your cooperation in the child support enforcement process may be of value to you and your child because it might result in the following benefits:

- Finding the absent parent;
- Legally establishing your child's paternity;
- The possibility that support payments might be higher than your welfare grant; and
- The possibility that you and your children may obtain rights to future social security, veterans, or other government benefits.

Office of Family Assistance, ACF, HHS

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WHAT IS MEANT BY COOPERATION?

The law requires you to cooperate with the welfare, child support and Medicaid agencies to get any support (financial or medical) owed to you and any of the children for whom you want AFDC, unless you have good cause for not cooperating.

In cooperating with the welfare, child support and Medicaid agencies, you may be asked to do one or more of the following things:

- Name the parent of any child applying for or receiving AFDC, and give information you have to help find the parents;
- Help determine legally who the father is if your child was born out of wedlock;
- Give help to obtain money owed to you or the children receiving AFDC;
- Pay the State any money which is given directly to you by the absent parent (you will continue to get your full AFDC grant from the State); and
- Identify and provide information to assist the State in the pursuit of any third party who may be liable to pay for medical care and services.

You may be required to come to the welfare office, child support office, court or the State Medicaid agency to sign papers or give necessary information.

WHAT IS MEANT BY GOOD CAUSE?

You may have good cause not to cooperate in the State's efforts to collect child support and to provide information to assist the State in pursuing third party liability. You may be excused from cooperating if you believe that cooperation would not be in the best interest of your child, and if you can provide evidence to support this claim.

IF YOU DO NOT COOPERATE AND YOU DO NOT HAVE GOOD CAUSE

- You will be ineligible for AFDC.
- Your children will still be eligible for AFDC for their own needs. Your children's benefits will go to another person, called a "protective payee."

HOW AND WHEN YOU MAY CLAIM GOOD CAUSE

- If you want to claim good cause, you must tell a worker that you think that you have good cause. You can do this at any time you believe you have good cause not to cooperate.
- If you claim "good cause" you must be given another notice. This second notice will explain the circumstances under which the Welfare Agency may find good cause, and the type of evidence or other information the Welfare Agency needs to decide your claim. You may also ask for this second notice to help you decide whether or not to claim good cause.

I have read this notice concerning my right to claim good cause for refusing to cooperate.

(Signature of applicant/recipient)

(Date)

I have provided the applicant/recipient with a copy of this notice.

(Signature of worker)

(Date)

*Second Notice of Right To Claim Good Cause for Refusal To Cooperate in Identifying and Providing Information to Assist the State in Pursuit of Third Parties Liable for Medical Services, and in Child Support Enforcement*

You may claim to have good cause for refusing to cooperate if you believe that such cooperation would not be in the best interests of your child. The following are circumstances under which the Welfare Agency may determine that you have good cause for refusing to cooperate:

- Cooperation is anticipated to result in serious physical or emotional harm to the child;
- Cooperation is anticipated to result in physical or emotional harm to you which is so serious it reduces your ability to care for the child adequately;
- The child was born after forcible rape or incest;
- Court proceedings are going on for adoption of the child; or
- You are working with an agency helping you to decide whether to place the child for adoption.

PROVING GOOD CAUSE

It is your responsibility to:

- Provide the Welfare Agency with the evidence needed to determine whether you have good cause for refusing to cooperate (If your reason for claiming good cause is your fear of physical harm and it is impossible to obtain evidence, the Welfare Agency may still be able to make a good cause determination after an investigation of your claim).
  - Give the necessary evidence to the agency within 20 days after claiming good cause. The Welfare Agency will give you more time only if it determines that more than 20 days are required because of the difficulty in obtaining the evidence.
- The Welfare Agency may:
- Decide your claim based on the evidence which you give to the agency, or
  - Decide to conduct an investigation to further verify your claim. If the Welfare Agency decides an investigation is needed, you may be required to give information, such as the absent parent's name and address, to help the investigation. The agency

will not contact the absent parent without first telling you.

NOTE: If you are an applicant for assistance, you will not receive your share of the grant until you have given the agency the evidence needed to support your claim, and, if requested, the information needed to permit an investigation of your claim.

#### EXAMPLES OF ACCEPTABLE EVIDENCE

The following are examples of acceptable kinds of evidence the Welfare Agency can use in determining if good cause exists.

If you need help in getting a copy of any of the documents, ask the Welfare Agency. The Welfare Agency will give you reasonable assistance which is needed to help you obtain the necessary documents to support your claim.

- Birth certificates, or medical or law enforcement records, which indicate that the child was conceived as the result of incest or forcible rape;
- Court documents or other records which indicate that legal proceedings for adoption are pending in court;
- Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the alleged or absent parent might inflict physical or emotional harm on you or the child;
- Medical records which indicate emotional health history and present health status of you or the child for whom support would be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of you or the child;
- A written statement from a public or private agency confirming that you are being assisted in resolving the issue of whether to keep or give up the child for adoption; and
- Sworn statements from individuals, including friends, neighbors, clergymen, social workers, and medical professionals who might have knowledge of the circumstances providing the basis of your good cause claim.

#### CHILD SUPPORT AGENCY AND MEDICAID AGENCY PARTICIPATION AND ENFORCEMENT

The Child Support Enforcement Agency or the Medicaid Agency may review the welfare agency's findings and the basis for a good cause determination in your case. If you request a hearing regarding this issue of good cause for refusing to cooperate, the Child Support Enforcement Agency or the Medicaid Agency may participate in that hearing.

The Notice must include one of the following statements, as applicable depending on the State plan option chosen. See §232.49.

*Option 1.* If you are found to have good cause for not cooperating, the Child Support Enforcement Agency may attempt to establish paternity or collect support and the

State Medicaid Agency may attempt to collect third party information and pursue third parties potentially liable for medical services only if the welfare agency determines that this can be done without risk to you or your child. This will not be done without first telling you.

*Option 2.* If you are found to have good cause for not cooperating, the Child Support Enforcement Agency will not attempt to establish paternity or collect support and, as appropriate, the State Medicaid Agency may not pursue third parties potentially liable for medical services.

I have read this notice concerning my right to claim good cause for refusing to cooperate.

\_\_\_\_\_  
(Signature of applicant/recipient)

\_\_\_\_\_  
(Date)

I have provided the applicant/recipient with a copy of this notice.

\_\_\_\_\_  
(Signature of worker)

\_\_\_\_\_  
(Date)

[56 FR 8931, Mar. 4, 1991]

## PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Sec.

- 233.10 General provisions regarding coverage and eligibility.
- 233.20 Need and amount of assistance.
- 233.21 Budgeting methods for OAA, AB, APTD, and AABD.
- 233.22 Determining eligibility under prospective budgeting.
- 233.23 When assistance shall be paid under retrospective budgeting.
- 233.24 Retrospective budgeting; determining eligibility and computing the assistance payment in the initial one or two months.
- 233.25 Retrospective budgeting; computing the assistance payment after the initial one or two months.
- 233.26 Retrospective budgeting; determining eligibility after the initial one or two months.
- 233.27 Supplemental payments under retrospective budgeting.
- 233.28 Monthly reporting.
- 233.29 How monthly reports are treated and what notices are required.
- 233.31 Budgeting methods for AFDC.
- 233.32 Payment and budget months (AFDC).